

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

TOO MARKER PRODUCTS, INC., and  
IMAGINATION INTERNATIONAL, INC.,

Plaintiffs and  
Counterclaim Defendants,

v.

CC INTERNATIONAL LLC, and HOT OFF  
THE PRESS, INC.,

Defendants and  
Counterclaim Plaintiffs.

Case No. 6:12-cv-00834-TC

**LIMITED JUDGMENT**

COFFIN, Magistrate Judge,

Based on the record in this case, plaintiffs' acceptance of defendants' Offer of Judgment, and the parties' consent and stipulation to the entry of the following judgment:

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that:

1. Plaintiffs Too Marker Products, Inc. and Imagination International, Inc. have asserted four claims against defendants CC International LLC and Hot Off the Press, Inc. as follows:

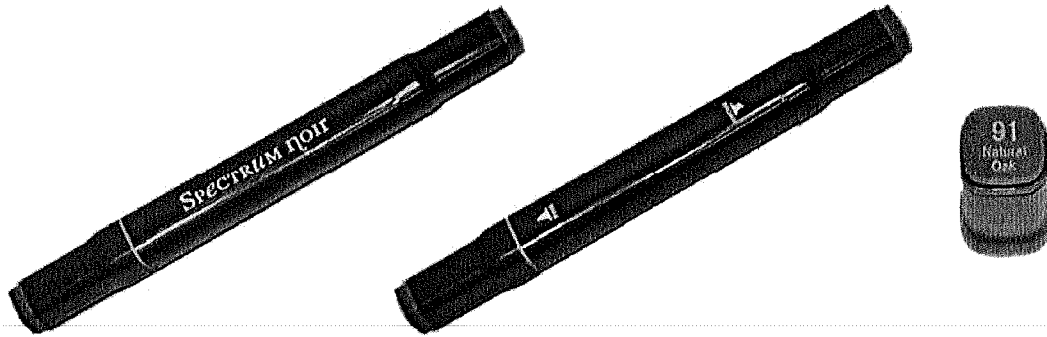
- (a) infringement of U.S. Trademark Registration No. 3,629,617  
("617 Mark") arising out of defendants' importation and sale of  
SPECTRUM NOIR markers;

- (b) infringement of U.S. Trademark Registration No. 4,113,852 (“‘852 Mark”) (the ‘617 Mark and the ‘852 Mark are collectively referred to as the “Registered Marks”) arising out of defendants’ importation and sale of SPECTRUM NOIR markers;
- (c) unfair competition under Lanham Act § 43 with respect to the product configuration of the COPIC line of markers arising out of defendants’ importation and sale of SPECTRUM NOIR markers; and
- (d) common law trademark infringement with respect to the product configuration of the COPIC line of markers arising out of defendants’ importation and sale of SPECTRUM NOIR markers.

2. Plaintiffs seek damages and injunctive relief in connection with their claims.

3. Defendants have asserted counterclaims seeking declaratory judgments of non-infringement and invalidity with respect to the Registered Marks and non-infringement with respect to plaintiffs’ trade dress. Defendant Hot Off The Press, Inc. has also asserted a counterclaim of laches.

4. Plaintiffs have accepted defendants’ Offer of Judgment dated as of November 30, 2012, and attached hereto as Exhibit A, and this Limited Judgment shall be subject to the terms thereof except as provided in paragraph 8 below. As used in Exhibit A, the first design of the SPECTRUM NOIR marker, which has since been discontinued (the “Discontinued Design”), is depicted below:



5. Accordingly, judgment is entered in favor of plaintiffs and against defendants on all claims and counterclaims in this action to the extent that they arise out of the importation or sale of SPECTRUM NOIR markers having the Discontinued Design.

6. This Limited Judgment shall adjudicate the parties' claims and counterclaims only to the extent that they arise out of the importation or sale of SPECTRUM NOIR markers having the Discontinued Design, and this Limited Judgment shall not adjudicate or otherwise affect any claim or counterclaim arising out of or otherwise relating to the importation or sale of SPECTRUM NOIR markers having a product configuration other than the Discontinued Design.

7. Plaintiffs shall recover from defendants the amount of \$4,446.07.

8. Each party will bear its own costs and attorney fees.

DATED this 8 day of July, 2013.

  
\_\_\_\_\_  
HONORABLE THOMAS M. COFFIN  
United States Magistrate Judge

# Exhibit A

**Stephen F. English**, OSB No. 730843  
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**Julia E. Markley**, OSB No. 000791  
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Attorneys for Defendants CC International LLC  
and Hot Off The Press, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

**TOO MARKER PRODUCTS, INC., and  
IMAGINATION INTERNATIONAL,  
INC.,**

Plaintiffs and  
Counterclaim  
Defendants,

v.

**CC INTERNATIONAL LLC, and HOT  
OFF THE PRESS, INC.,**

Defendants and  
Counterclaim  
Plaintiffs.

No. 6:12-cv-00834-TC

**DEFENDANTS' OFFER OF  
JUDGMENT**

By CC International LLC and Hot Off The  
Press, Inc.

TO: Plaintiffs Too Marker Products, Inc., and Imagination International, Inc. and  
their counsel of record, Timothy S. DeJong and Jacob Gill, Stoll Stoll Berne Lokting &  
Schlachter

Defendants CC International LLC and Hot Off The Press, Inc., offer to allow entry of  
judgment pursuant to Federal Rule of Civil Procedure 68 as follows:

Judgment in favor of Plaintiffs against Defendants on all claims in the above matter based  
on the first design of the Spectrum Noir pen only, which design has since been discontinued, in  
the sum of \$4,446.07, exclusive of costs and attorneys' fees. This offer of judgment does not

1- DEFENDANTS' OFFER OF JUDGMENT

apply to any claims based on the current design of the Spectrum Noir pen. If Plaintiffs accept this offer, then Plaintiffs or Plaintiffs' attorneys shall endorse such acceptance hereon, and file the same with the clerk within fourteen days from the time it was served upon Plaintiffs. If the offer is not accepted and filed within the time prescribed, it shall be deemed withdrawn, and shall not be given as evidence at trial. If Plaintiffs fail to obtain a more favorable judgment, Plaintiffs shall not recover costs or prevailing party fees or disbursements incurred after the date of the offer, and Defendants shall recover their costs and disbursements, not including prevailing party fees, from the time of the service of the offer. This offer of judgment is made for the purposes specified in Rule 68 and is not to be construed as an admission of liability.

DATED: November 30, 2012

**PERKINS COIE LLP**

By:   
\_\_\_\_\_  
Stephen F. English, OSB No. 730843  
SEnglish@perkinscoie.com  
Julia E. Markley, OSB No. 000791  
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Attorneys for Defendants CC International  
LLC and Hot Off The Press, Inc.

2- DEFENDANTS' OFFER OF JUDGMENT

LEGAL24839859. 3

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Phone: 503.727.2000  
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Exhibit A  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **DEFENDANTS' OFFER OF JUDGMENT**  
on the following:

Timothy S. DeJong  
tdejong@ssbls.com  
Jacob S. Gill  
jgill@ssbls.com  
Stoll Stoll Berne Lokting & Schlachter  
209 SW Oak St., Fifth Floor  
Portland, OR 97204

Attorneys for Plaintiffs Too Marker Products,  
Inc. and Imagination International, Inc.

to be sent by the following indicated method or methods, on the date set forth below:

- ☐ by overnight delivery  
☒ by email  
☒ by U.S. mail  
☐ by hand delivery

DATED: November 30, 2012

**PERKINS COIE LLP**

By: 

Stephen F. English, OSB No. 730843  
SEnglish@perkinscoie.com  
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Attorneys for Defendants CC International  
LLC and Hot Off The Press, Inc.

1- CERTIFICATE OF SERVICE

LEGAL24839859. 3

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